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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/070,455	11/24/1993	PER HOFVANDER	003300293	8855

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EXAMINER

FOX, DAVID T

ART UNIT PAPER NUMBER

1638

DATE MAILED: 09/26/2002

35

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/070,455

Applicant(s)

Hofvander et al

Examiner

FOX

Group Art Unit

1638

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE - 3 - MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 9/5/96, 9/25/96, 1/3/97, 9/25/01.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 4, 6-23 and 50 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 1, 4, 7-23 and 50 is/are allowed.
- ☒ Claim(s) 6 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1638

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1638.

Interference No. 103,579 has been terminated by a decision adverse to applicant with respect to claim 6. *Ex parte* prosecution is resumed.

The amendment of 5 September 1996, which cancelled claim 6, amended claims 1, 4 and 7-20, and added new claims 24-49, has not been entered, as indicated on pages 63-64 of the Decision of 25 September 2001. The amendment of 25 September 1996 was not entered, because it reflected changes to claims 1, 4, 7 and 10 made by the amendment of 5 September 1996, which was not entered as stated above. Furthermore, both of these amendments were incorrect in their recitation of the number of times that the claims had been amended. Claims 1, 4, 6-7 and 10 had already been amended three times, given the entry of the amendment filed 31 July 1995.

The amendment of 3 January 1997, adding claim 50, has been entered, as evidenced by pages 128-130 of the Decision of 25 September 2001.

Any subsequent amendments should comply with the format specified in newly revised 37 CFR 1.121(c). In addition, any new claims should begin with claim number 51.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(C) he has abandoned the invention.

Claim 6 is rejected under 35 U.S.C. 102(c) because the invention has been abandoned.

Art Unit: 1638

Applicants' attempts to cancel claim 6 in the amendment of 5 September 1996 is considered constructive abandonment of the invention corresponding to it. See also page 62 of the Decision of 25 September 2001, and page 129 of that Decision, second paragraph, which state that this attempt will result in Adverse judgment against that claim. See also MPEP 2134 and MPEP 2363.03.

Claims 1, 4, 7-23 and 50 are deemed free of the prior art, given the statement on pages 128-130 of the Decision of 25 September 2001 that no Interference-in-Fact existed between these claims and those of another application.

Claims 1, 4, 7-23 and 50 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fox whose telephone number is (703) 308-0280. The examiner can normally be reached on Monday through Friday from 10:30AM to 7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached on (703) 306-3218. The fax phone number for this Group is (703) 872-9306. The after final fax phone number is (703) 872-9307.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

September 24, 2002

DAVID T. FOX
PRIMARY EXAMINER
GROUP 180-1638

